

**SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION
3090-0306, TRANSACTIONAL DATA REPORTING**

A. Justification

1. Explain the circumstances that make the collection of information necessary.

Transactional data is generated when a transaction is made between a buyer and seller and shows details of transactions at the line-item level, such as descriptions, quantities, and the prices paid for the items purchased. The Government is increasingly using this data to gain insight into its purchasing patterns, allowing it to identify the most efficient solutions, channels, and sources to meet its mission critical needs. This data is particularly critical to the Government's use of category management, the business practice of buying common goods and services as an enterprise to eliminate redundancies, increase efficiency, and deliver more value and savings from acquisition programs. Moreover, individual buyers benefit from this data when conducting market research, price analysis, and negotiations.

Transactional data is typically possessed by the buyer and seller in a transaction. On the Government (buyer) side, this data is often found in contract writing systems and financial systems. However, these systems are not shared across agencies; in fact, some agencies use multiple versions of these systems. Hence, no mechanism currently exists to compile and analyze transactional data from a wide-range of purchases made across the Government.

GSA sought to improve the Government's access to this data through the Transactional Data Reporting (TDR) final rule, published on June 23, 2016.¹ The rule amended the General Services Administration Acquisition Regulation (GSAR) by establishing two contract clauses requiring contractors to report transactional data from orders placed against GSA's Government-wide contract vehicles:

- Alternate I of GSAR clause 552.238-80 Industrial Funding Fee and Sales Reporting has been introduced to the Federal Supply Schedule (FSS) program on a pilot basis, along with corresponding reductions to existing pricing disclosure requirements.
- GSAR clause 552.216-75 Transactional Data Reporting is applicable to GSA's Government-wide Acquisition Contract (GWAC) and other Government-wide indefinite-delivery indefinite-quantity (IDIQ) contract vehicles established after June 23, 2016.² As of May 2019, Alliant 2 (unrestricted) is the only vehicle in this class that has been required to, and is using, the TDR clause.

This information collection primarily applies to GSA's FSS contracts, commonly known as GSA Schedules or Multiple Award Schedules (MAS). These Government-wide contracts provide federal agencies with a simplified process for acquiring commercial supplies and services. The GSA FSS program is the Government's preeminent commercial contracting vehicle, accounting for about 10 percent of all federal contract dollars with approximately \$33 billion of purchases made through the program in fiscal year 2018.

GSA establishes the pricing and terms of each GSA Schedule contract with its contract holders. Federal agencies then follow GSA's competitive procedures when placing orders against these

¹ See GSAR Case 2013-G504; Docket 2014-0020; Sequence 1 [81 FR 41104 (June 23, 2016)].

² The rule does not apply to FSS contracts administered by the Department of Veterans Affairs.

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contracts and thereby satisfy statutory competition requirements to provide “the lowest overall cost alternative to meet the needs of the Federal Government.”³ In turn, those agencies must pay an Industrial Funding Fee (IFF) that covers GSA’s costs of operating the FSS program. The fee is currently set at 0.75% and is included in the prices ordering activities pay contractors when purchasing from an FSS contract.⁴ FSS contractors then report GSA Schedule sales data and remit the IFF collected from ordering activities to GSA once a quarter.

There were a total of 16,215 FSS contracts in fiscal year 2018. This information collection pertains to the 2,063 contracts that participated in the TDR pilot. The remaining 14,152 contracts are subject to legacy sales reporting requirements and pricing disclosure requirements associated with Commercial Sales Practices (CSP) and GSAR clause 552.238-81 Price Reductions, otherwise known as the Price Reductions Clause (PRC); those requirements are accounted for under separate information collection identified by OMB control number 3090-0235.

2. Indicate how, by whom, and for what purpose the information is to be used.

GSA uses the data to establish price reasonableness on its Government-wide contract vehicles. For the Schedules program, the TDR clause⁵ is paired with the removal of the existing FSS pricing disclosure requirements—Commercial Sales Practices (CSP) disclosures and the basis of award tracking customer provision of the Price Reductions clause (PRC).⁶ Instead, FSS contracting officers follow an order of preference for information to be used when evaluating FSS offers and establishing negotiating objectives, beginning with data that is readily available, in accordance with FAR 15.404-1(b)(2)(ii),⁷ including prices paid information on contracts for the same or similar items [including transactional data]; contract-level prices on other FSS contracts or Government-wide contracts for the same or similar items, and commercial data sources providing publicly available pricing information.

GSA intends to provide authorized Government personnel access to the data for pre-award contracting activities. The data will help Government buyers conduct market research and price analysis, leading to more optimal acquisitions that make better use of taxpayer dollars. This data will be instrumental for buyers to ensure they are obtain best value solutions when placing orders under GSA’s contract vehicles.

Federal category managers are also working to employ the data to gain an unprecedented level of insight into its purchasing patterns, allowing them to identify the most efficient solutions, channels, and sources to meet mission critical needs. Transactional data helps category managers to analyze consumption patterns, evaluate and compare purchasing channels, and identify best-in-class solutions. Thereafter, the Government can leverage its buying power and demand management strategies to achieve taxpayer savings as it concentrates its purchases

³ 41 U.S.C. 152(3)(B) requires FSS ordering procedures to “result in the lowest overall cost alternative to meet the needs of the Federal Government.”

⁴ The IFF for Schedule 599, Special Item Number 599-2 is \$1.50 per transaction.

⁵ GSAR clause 552.238-80 Alternate I (48 CFR 552.238-80 Alternate I)

⁶ FSS Pricing Disclosures and Sales Reporting are covered by a separate information collection, identified under OMB Control Number 3090-0235.

⁷ Federal Acquisition Regulation 15.404-1(b)(2)(ii) [48 CFR 15.404-1(b)(2)(ii)]

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through fewer channels and helps contractors realize lower administrative costs.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques.

Vendors submit all information associated with this collection electronically through an Internet website, FAS Sales Reporting (<https://srp.fas.gsa.gov>). The TDR clauses require GSA to provide reporting instructions, including the website address, within 60 days of award or inclusion of the applicable clauses in the contract.

FSS contractors participating in the TDR FSS pilot submit transactional data and remit Industrial Funding Fee (IFF) payments through the FAS Sales Reporting website in lieu of the quarterly sales reports and IFF payments submitted through the 72A Sales Reporting System.⁸

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

GSA explored several alternatives for obtaining transactional data prior to publishing the final rule in 2016—internal applications; GSA ordering platforms such as eBuy and GSA Advantage!®; the SmartPay credit card purchase program; and upgrades to the Federal Procurement Data System. GSA concluded these options would not provide the breadth of data needed to support the Government’s objectives or would be unable to do so in the foreseeable future.

While GSA can collect some transactional data through purchase card transactions, doing so would limit the Government to a small, non-representative sample of data that would be ineffective for the broader goals of category management and smarter buying strategies. Increasing purchase card usage in order for purchase card data to be a viable solution would require numerous regulatory, procedural, and security changes to implement, which could not be accomplished in the near future and therefore would not support the Government’s immediate needs.

Additionally, the Government’s electronic invoicing initiative⁹ was assessed as a potential alternative. However, following meetings regarding electronic invoicing implementation with representatives from the Department of Defense, Department of Energy, Department of Transportation, Department of Treasury, and Department of Veterans Affairs, it was determined these electronic invoicing platforms will not provide a Governmentwide transactional data reporting solution in the near term. Three years later, the electronic invoicing initiative is still not a viable near-term substitute for TDR.

⁸ Industrial Funding Fee and Sales Reporting is covered by a separate information collection, previously identified under OMB control number 3090-0121 but consolidated with OMB control number 3090-0235 in 2019.

⁹ See Office of Management and Budget memorandum M-15-19, “Improving Government Efficiency and Saving Taxpayer Dollars Through Electronic Invoicing”, July 17, 2015, available at <https://www.whitehouse.gov/sites/default/files/omb/memoranda/2015/m-15-19.pdf>

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5. If the collection of information impacts small businesses or other small entities (item 5), describe any methods used to minimize burden.

FSS contracts participating in the TDR pilot currently account for nearly all of those initially impacted by this information collection, and about 83% of those contracts are held by small businesses. To minimize the impact of TDR on FSS contractors, GSA waived two of its most burdensome reporting requirements, Commercial Sales Practices (CSP) disclosures and the Price Reductions clause (PRC) tracking customer provision.

Streamlining these pricing disclosure requirements is particularly beneficial for small businesses. The CSP and PRC disclosure requirements are constant, meaning contractors, especially those with a higher number of FSS contract offerings, must bear the burden even if they have little to no sales through their FSS contracts. Thus, small businesses are disproportionately impacted because they account for the bulk of lower volume contracts. Moreover, small businesses, which generally have fewer resources to devote to contract administration, are no longer be subject to the complex CSP and PRC pricing disclosure requirements when participating in the TDR pilot.

Unlike the existing CSP and PRC disclosure requirements, TDR imposes a progressive burden—one that increases with a contractor's sales volume. Namely, monthly reporting time increases with a contractor's applicable sales volume, so contractors with lower to no reportable sales will spend little time on monthly reporting, while those businesses with more reportable sales will face a higher reporting burden. Likewise, setup costs can be a major driver of the new reporting burden, but contractors with little to no activity on their FSS contracts will mostly likely forgo investments in new reporting systems because the reporting burden will not be significantly more than that of the current quarterly sales reporting requirements. Thus, tying the burden to sales volume is particularly beneficial for small businesses because they hold 83% of the total contracts in the FSS pilot but only account for about 36% of the total pilot sales.¹⁰

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Federal initiatives, such as the evolution of category management, will be negatively impacted if this collection is not conducted. As noted previously, transactional data affords category managers an unprecedented level of insight into its purchasing patterns, allowing them to identify the most efficient solutions, channels, and sources to meet mission critical needs. Two of category management's key principles are optimizing existing contract vehicles and reducing contract duplication. With transactional data, category managers can analyze consumption patterns, evaluate and compare purchasing channels, and identify best-in-class solutions. Thereafter, the Government can leverage its buying power and demand management strategies to achieve taxpayer savings as it concentrates its purchases through fewer channels, while contractors realize lower administrative costs. Transactional data provides the business intelligence needed to implement category management, and without it, the Government will be limited in its ability to orchestrate centralized procurement strategies that reduce contract duplication and leverage the Government's buying power.

¹⁰ Based on fiscal year 2018 Federal Supply Schedule contract data.

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GSA believes TDR offers a meaningful burden reduction for FSS contractors. GSA estimates the combined burden of this information collection is 50% less per contract than the legacy sales reporting requirements and CSP and PRC disclosures associated with OMB control number 3090-0235. GSA estimates if all FSS contractors participated in TDR, they would realize an estimated annual burden reduction of \$64.6 million.¹¹ On the other hand, GSA estimates ending the FSS pilot will cost participating contractors nearly \$22.6 million and GSA approximately \$3 million to transition to the legacy sales reporting and CSP and PRC disclosure requirements unless an alternate method is created to collect the IFF, monitor program sales and establish and monitor contract pricing.¹²

Finally, conducting this information collection less frequently would not significantly reduce the reporting burden, while the data would become less valuable if a large amount of time passes between when the transaction is conducted and when the data is reported. Also, less frequent collections would make it more difficult for GSA to tie reporting requirements to existing fee remittance requirements. This would be particularly impactful for the Schedules program, which has traditionally required its contractors to report their contract sales and remit the Industrial Funding Fee (IFF) at the end of each calendar quarter (every three months).¹³ In contrast, the new FSS TDR clause requires contractors to report transactional data once a month and continue to remit the IFF at the end of each quarter. GSA decided against aligning data reporting and fee remittance on a quarterly basis because the data would be more valuable if collected monthly. On the other hand, GSA cannot allow less frequent IFF remittance because doing so would negatively impact the GSA Federal Acquisition Service, which is partially funded by IFF collections. If GSA were to decouple the reporting and remittance requirements, contractors would not realize the efficiencies achieved by aligning these functions and would therefore bear a higher reporting burden.

7. Explain any special circumstances.

The TDR clauses require contractors to file reports more than quarterly— specifically, within 30

¹¹ The estimated burden for this information collection, which applied to the 14,152 contracts not participating in the TDR pilot, is estimated to be \$128 million. This equates to a per-contract burden of \$9,049/year. The estimated burden for the TDR information collection is \$9.2 million/year for the 2,063 contracts participating in the FSS pilot; this equates to a per-contract the burden of \$4,483/year. The estimated \$64.6 million/year burden reduction is calculated by taking the updated 3090-0235 burden estimate (\$128 million/year) and subtracting the product of the number of contracts included in 3090-0235 multiplied by the average per-contract burden of TDR (14,152 contracts x \$4,483), which equals \$63.4 million/year (\$128M - \$63.4M = \$64.6M). More information about the FSS Pricing Disclosures and Sales Reporting can be found under Information Collection 3090-0235 at <http://www.reginfo.gov/public> by searching “ICR” for “3090-0235”.

¹² Vendors transitioning back to the CSP/PRC framework would have to submit CSPs to establish basis of award pricing. As of December 2018, 2,158 contractors were participating in the TDR pilot. Using the framework for new offer CSPs in this information collection, 2,158 new offer CSPs would equate to a burden of \$19.5 million. This same framework would show increased costs of \$3 million for GSA to process 2,158 new offer CSPs. Additionally, these contractors would also need to establish sales tracking systems to comply with the sales reporting requirements of the basic version of GSAR clause 552.238-80. Using the sales reporting cost estimation framework for establishing new systems from OMB control number 3090-0235, this would cost these contractors \$3.1 million.

¹³ Industrial Funding Fee and Sales Reporting is covered by a separate information collection, identified under OMB Control Number 3090-0121.

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days after the end of the last day of each month. GSA opted to require monthly reporting because transactional data is less valuable as time passes.

The FSS TDR clause (GSAR clause 552.238-80 Alternate I) requires contractors to report transactional data once a month and continue to remit the IFF at the end of each quarter. GSA opted against aligning data reporting and fee remittance on a quarterly basis because the data would be more valuable if collected monthly. On the other hand, GSA cannot allow less frequent IFF remittance because doing so would negatively impact the GSA Federal Acquisition Service, which is partially funded by IFF collections. If GSA were to decouple the reporting and remittance requirements, contractors would not realize the efficiencies achieved by aligning these functions and would therefore bear a higher reporting burden.

Transactional data also includes information that some contractors consider to be proprietary trade secrets. GSA will disclose the full data only to authorized individuals and protect it in accordance with its standard information technology security policies. Additionally, GSA intends to eventually share the transactional data with the public to the maximum extent allowable to promote transparency and competition, while respecting that some data could be exempt from disclosure in accordance with the Freedom of Information Act.

8. Describe efforts to consult with persons outside the agency.

An initial notice of request for comments regarding the extension of this information collection was published in the *Federal Register* at 84 FR 24512 on May 28, 2019. GSA sought comments regarding (1) whether this information collection is necessary and has practical utility, and (2) if GSA's estimate of the collection burden is accurate, and based on valid assumptions and methodology. In response, GSA received comment letters from:

- immixGroup, Inc. (immixGroup)
- GSA Office of Inspector General (GSA OIG)
- The Coalition for Government Procurement (The Coalition)

immixGroup's letter, dated July 24, 2019, addressed this information collection. The GSA OIG's letter, dated July 26, 2019, expressly provided comments for this information collection and the FSS Pricing Disclosures and Sales Reporting information collection (OMB control number 3090-0235). The Coalition's letter, dated July 29, 2019, is limited to this information collection, although they provided a separate letter with comments on the FSS Pricing Disclosures and Sales Reporting information collection (OMB control number 3090-0235). GSA is providing responses to FSS Pricing Disclosures and Sales Reporting in documents associated with the extension of that information collection (OMB control number 3090-0235).

The following are summaries of the respondents' comments related to this information collection, grouped by subject matter, and GSA's responses:

Burden Estimates

Comments: ImmixGroup and the Coalition commented on GSA's burden estimates.

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immixGroup stated the initial setup took about half the time estimated by GSA and noted it takes them four hours to complete monthly reporting requirements. The Coalition, on the other hand, stated three of GSA's reporting burden assumptions are invalid—

- The monthly reporting burden for TDR is largely alleviated through automated systems: The Coalition stated they conducted a survey among their members in 2015 and the respondents, all of which would fall into GSA's Category 5 of contractors (Schedule sales over \$1 million), estimated the monthly reporting burden to be 68 hours, even when using automated systems.
- Contractor employees responsible for the initial setup are paid at a fully burdened labor rate of \$77.55/hour: The Coalition estimated this cost to be an average of \$140/hour.
- The number of companies accepting TDR will remain constant year to year: The Coalition noted GSA is currently consolidating the Schedules into a single solicitation; if the current scope of the pilot remains unchanged, this would allow almost 400 more contractors to join the pilot.

GSA Response: GSA believes its burden estimates are valid and the comments underscore the fact that the burden varies widely by contractor, which is why GSA separated the reporting burden by sales volume and reporting system (automated vs. manual).

GSA's estimates for the automated and manual categories are intended to be an average within that category. For example, immixGroup holds 2 of the 12 pilot contracts with FY 2018 sales exceeding \$100 million, while the other 510 contracts under Category 5 each had less than \$100 million in sales, including 172 contracts with sales between \$1 million and \$2 million. GSA believes a contractor with sales similar to those of immixGroup would have a reporting burden toward the higher end of the population of Category 5 contractors. Likewise, GSA believes some contractors will have a higher reporting burden than that shared by immixGroup, such as those reported by the Coalition's members in 2015, but GSA also estimates most Category 5 contractors using automated systems will have a lower burden. Consequently, GSA believes its estimate is representative of the average Category 5 reporting burden.

GSA also believes the labor rates provided by the Coalition are significantly higher than those typically paid by contractors to fulfill these functions. GSA believes these functions are typically performed by accounting staff with occasional assistance from higher-paid professionals, such as attorneys and consultants. The most comparable labor category for the accounting staff analyzed by the Bureau of Labor Statistics (BLS) are accountants and auditors (13-2011). BLS's most recently published mean hourly rate for this category was \$37.89/hour¹⁴; when factoring a 36.25 percent overhead rate for fringe benefits, the fully burdened rate is \$51.63 an hour.¹⁵ However, GSA chose to use the higher \$77.55/hour rate to account for the occasional involvement of higher-paid professionals.

¹⁴ See the Bureau of Labor Statistics Occupational Employment and Wages for Compliance Officers, *available at* <https://www.bls.gov/oes/current/oes132011.htm>

¹⁵ 36.25% overhead rate was used in reference to Office of Management and Budget (OMB) Circular No. A-76. Circular A-76 requires agencies to use standard cost factors to estimate certain costs of Government performance. These cost factors ensure that specific government costs are calculated in a standard and consistent manner to reasonably reflect the cost of performing commercial activities with government personnel.

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Finally, GSA acknowledges pilot participation may increase by the number of contractors estimated by the Coalition, but also notes that it is difficult to forecast future pilot participation because it is uncertain how many of those contractors would join the pilot if given the opportunity. On the other hand, a historical average would be skewed because most pilot contractors joined within the pilot's first year. As a result, the number of contractors that joined the pilot in the last fiscal year (FY 2018) is the most representative figure to use for the current burden estimate.

TDR Pilot Continuation

Comments: The GSA OIG questioned why GSA is continuing the TDR pilot beyond FY 2019, stating GSA has yet to include transactional data in its pricing analyses and decisions and TDR has yet to have an impact on order-level outcomes. Conversely, the Coalition and immixGroup stated TDR is less burdensome than CSP and PRC disclosures and reverting back to CSP and PRC disclosures if the TDR pilot is discontinued would be extremely burdensome.

GSA Response: GSA's premise has been TDR can meet or exceed the CSP and PRC's value while supporting better buying outcomes and reducing contractor reporting burden. Two-thirds of the way through the pilot, TDR has proven to be a less burdensome alternative, has had no adverse impact on contract-level pricing, and is starting to be used by contracting officers and category managers to improve buying outcomes. Accordingly, GSA has decided to continue the pilot through FY 2020 while it focuses on consolidating all 24 Schedules into one single Schedule. This decision removes uncertainty for contract partners and allows them to plan accordingly.

TDR Alternatives

Comments: immixGroup stated neither TDR or the Price Reductions clause (PRC) and Commercial Sales Practices (CSP) have much utility when technology enables the acquisition workforce to comparison shop and review pricing data, but applauds GSA for moving to TDR in lieu of the more burdensome legacy PRC and CSP requirements.

The Coalition recommends GSA reduce its reliance on TDR, the PRC and CSP and instead rely on market competition to reduce prices. The Coalition also recommends GSA seek technological solutions, such investing in automated systems and upgrading its existing ordering tools, rather than relying on a regulatory solution such as TDR.

Finally, the GSA OIG stated the CSP and PRC are needed for GSA to meet its statutory pricing obligations. They argued TDR "severs the link to the commercial marketplace" and is ineffective because it has not met its stated objectives or effectively replaced the CSP and PRC as pricing tools.

GSA Responses: GSA believes TDR, in conjunction with other horizontal pricing techniques, will be a superior method of ensuring FSS ordering procedures "result in the lowest overall cost

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alternative to meet the needs of the Federal Government,” as required by 41 U.S.C. §152(3)(B). To date, the TDR pilot has lowered industry burden while maintaining the Schedule pricing position. Additionally, contracting officers and category managers are beginning to use the data and GSA is continuously improving TDR data analytics.

Pilot Participation

Comments: immixGroup and the Coalition commented on pilot participation. immixGroup stated the pilot is more popular than the participation figures indicate because only certain Special Item Numbers are eligible for the pilot. Additionally, the Coalition recommended “that GSA provide TDR as an option for all Schedule holders, in place of PRC compliance and submission of the CSP, so that each contractor has the opportunity to make a business decision about the least burdensome, least costly, and most efficient compliance mechanism under the Schedules program.”

GSA Response: GSA has decided to extend the TDR pilot through FY 2020 while maintaining the current scope. This will enable GSA to focus on consolidating all 24 Schedules into one single Schedule and enable contractors and the GSA acquisition workforce to spend their resources understanding and participating in the consolidated Schedule. Additionally, maintaining the pilot’s current scope will allow GSA to understand the implications of the new consolidated Schedule environment on TDR.

The Government Already Possesses the Data

Comments: immixGroup noted GSA acknowledges the data it collects through TDR also exists in Government contract writing and financial systems and therefore asked, “if agencies are unwilling to share their transactional data with GSA, how is it that we, as contractors, should feel comfortable doing so?”

The Coalition stated they are “...concerned that the Government already possesses the data that it is requesting through TDR. Furthermore, TDR, which focuses on transactions for commercial products, has limited utility for services and solutions which comprise almost 70 percent of spending under the Schedules program.”

GSA Response: Agencies are not unwilling to share transactional data with GSA. Instead, a lack of system interoperability prevents GSA from harvesting the transactional data residing on the multitude of contract writing and financial systems used across the Government. GSA explored several alternatives for obtaining transactional data prior to publishing the final rule in 2016—internal applications; GSA ordering platforms such as eBay and GSA Advantage!®; the SmartPay credit card purchase program; upgrades to the Federal Procurement Data System; and the Government electronic invoicing initiative. GSA concluded in 2016 these options would not provide the breadth of data needed to support the Government’s objectives or would be unable to do so in the foreseeable future, and this remains the case in 2019.

In regards to using data from services and solutions, GSA acknowledges transactional data is

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most useful for price analysis when comparing like items, but this does not mean the data is not useful for services and solutions. Government buyers and FSS contracting officers will still use the data for price analysis and market research, and category managers will use the data for consumption analysis to form demand management strategies, regardless of whether the data can be used for perfect comparisons. An example is the ability to compare labor rates across contract vehicles, which is beginning to reduce contract duplication.

Data Usage

Comments: The Coalition and immixGroup expressed concern that transactional data will lead ordering contracting officers to always expect the lowest price paid by the Government, regardless of the terms, quantities purchased, or other circumstances that affect the prices offered on those orders. The Coalition also stated a lowest price expectation may cause the Government to favor cheaper products IT products that are more susceptible to cyber risks.

With respect to order-level price negotiations, the Coalition recommended the Government standardize the way it conducts horizontal price comparisons because they are concerned there will be “wide variations in practices for horizontal price comparisons across, and even within, agencies. This lack of consistency will increase contract administration costs for industry.” Regarding contract-level price negotiations, the Coalition stated, “GSA should acknowledge that while negotiating Schedule contracts the terms and conditions of the order will dictate the price.”

Finally, the Coalition stated GSA should provide agencies guidance on gray market and counterfeit items, which could be low-price outliers and skew price comparisons.

GSA Response: Contracting officers will continue to conduct acquisitions in accordance with the Federal Acquisition Regulation, which states a preference for “best value” solutions.¹⁶ Moreover, GSA instructs its contracting officers to take into account whether the data is current, the terms and conditions of the acquisition related to the prices paid, quantities purchased, and other material factors affecting the prices paid, such as blanket purchase agreements, temporary price reductions/promotional prices, and differing labor qualifications.

Regarding gray market and counterfeit items, transactional data prevents, rather than promotes, procurement of these items, as the data helps GSA identify and subsequently remove these items from the Schedules marketplace.

A 30-day notice published in the *Federal Register* at 84 FR 51573 on September 30, 2019.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

GSA makes no such payments under this collection.

¹⁶ Federal Acquisition Regulation section 1.102 (48 CFR 1.102).

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10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

Transactional data includes information that some contractors consider to be proprietary trade secrets. GSA will disclose the full data only to authorized individuals and protect it in accordance with its standard information technology security policies. Additionally, GSA intends to eventually share the transactional data with the public to the maximum extent allowable to promote transparency and competition, while respecting that some data could be exempt from disclosure in accordance with the Freedom of Information Act.

11. Provide additional justification for any questions of a sensitive nature.

No sensitive questions are involved.

12. Provide estimates of the hour burden of the collection of information.

Population Overview

The reporting clauses created by this rule are applied as follows:

- GSAR clause 552.216-75, Transactional Data Reporting is available for use for all of GSA’s non-FSS Government-wide IDIQ contracts. It will be applied to all new vehicles in this class—those vehicles with solicitations issued on or after June 23, 2016—but the current contract vehicles with alternative transactional data provisions may opt to continue using existing reporting requirements.
- GSAR clause 552.238-80, Industrial Funding Fee and Sales Reporting (Alternate I) only applies to a subset of the FSS program on a pilot basis. As of May 2019, the pilot Schedules and Special Item Numbers included in the pilot are as follows:

Schedule	Description	SINs	Offerings
51 V	Hardware Superstore	All	Products
58 I	Professional Audio/Video	All	Products
72	Furnishings & Floor Coverings	All	Products
73	Food Service, Hospitality, Cleaning Equipment	All	Products
75	Office Products/Supplies	All	Products
03FAC	Facilities Maintenance & Management	All	Services
00CORP	Professional Services Schedule (PSS)	Professional Engineering Services (PES)	Services

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70	Information Technology	132 8	Products
		132 33, 132 33, & 132 34	Software
		132 54 and 132 55	Satellite Services

The requirements under this information collection applied to 2,116 contracts in fiscal year 2018—2,063 FSS contracts and 53 contracts under the Alliant 2 unrestricted program.

Cost Estimates

The two primary activities associated with this information collection are initial setup and monthly reporting. GSA calculated the cost burden for each as follows:

- **Initial Setup:** The duties required for these activities will generally be completely by a senior-level subject matter expert. For the purposes of establishing an hourly rate, GSA equates these duties to those of a GS-14, Step 5 employee, whose hourly rate in 2019 for the “Rest of U.S.” locality is \$56.92 an hour.¹⁷ When factoring a 36.25 percent overhead rate for fringe benefits, the fully burdened rate is \$77.55 an hour.¹⁸
- **Monthly Reporting:** The duties required for these activities will generally be completely by mid-level personnel. For the purposes of establishing an hourly rate, GSA equates these duties to those of a GS-12, Step 5 employee, whose hourly rate in 2019 for the “Rest of U.S.” locality is \$40.51 an hour.¹⁹ When factoring a 36.25 percent overhead rate for fringe benefits, the fully burdened rate is \$55.19 an hour.²⁰

Reporting Requirements

The TDR clauses require contractors to report the data elements outlined in the clauses, such as item descriptions and prices paid, to a GSA website. This data must be reported monthly within 30 calendar days after the end of each calendar month, meaning contractors will furnish 12 reports over the course of a year for each contract containing one of these clauses. Vendors also remit applicable fees, such as the Industrial Funding Fee, when reporting this data.

Categorization of Vendors by Monthly Sales Revenue:

TDR imposes a progressive burden—one that increases with a contractor’s sales volume. Monthly reporting times increase with a contractor’s applicable sales volume, as contractors with lower to no reportable sales spend relatively little time on monthly reporting, while those with

17 See Office of Personnel Management (OPM), Pay & Leave: Salaries and Wages, SALARY TABLE 2019-RUS at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/19Tables/html/RUS_h.aspx
18 36.25% overhead rate was used in reference to Office of Management and Budget (OMB) Circular No. A-76. Circular A-76 requires agencies to use standard cost factors to estimate certain costs of Government performance. These cost factors ensure that specific government costs are calculated in a standard and consistent manner to reasonably reflect the cost of performing commercial activities with government personnel.

19 See Office of Personnel Management (OPM), Pay & Leave: Salaries and Wages, SALARY TABLE 2019-RUS at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/19Tables/html/RUS_h.aspx
20 36.25% overhead rate was used in reference to Office of Management and Budget (OMB) Circular No. A-76. Circular A-76 requires agencies to use standard cost factors to estimate certain costs of Government performance. These cost factors ensure that specific government costs are calculated in a standard and consistent manner to reasonably reflect the cost of performing commercial activities with government personnel.

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more reportable sales with face a higher reporting burden.

GSA separated contractors into categories based on annual sales volume in order to account for the differences in reporting burden. These categories are:

- Category 1: No sales activity (annual sales of \$0)
- Category 2: Annual sales between \$0 and \$25,000
- Category 3: Annual sales between \$25,000 and \$250,000
- Category 4: Annual sales between \$250,000 and \$1 million
- Category 5: Annual sales over \$1 million

The distribution of contractors by sales category is as follows:

FSS and Non-FSS Vendors by Sales Category					
	FSS Vendors (Count)	FSS Vendors (Percentage)	Non-FSS Vendors (Count)	Non-FSS Vendors (Percentage)	Total Vendor Count by Category
Category 1	318	15%	37	70%	355
Category 2	197	10%	0	0%	197
Category 3	619	30%	0	0%	619
Category 4	407	20%	2	4%	409
Category 5	522	25%	14	26%	536
Total	2,063	100%	16	100%	2,116

Automated vs. Manual Reporting Systems:

Vendors subject to these clauses must create systems or processes to produce and report accurate data. Generally, contractors will use automated or manual systems to identify the transactional data to be reported each month. An automated system is one that relies on information technology, such as an accounting system or data management software, to identify and compile reportable data. These systems can tremendously streamline the reporting process but require upfront configuration to perform the tasks, such as coding the data elements to be retrieved. Conversely, a manual system is one that incorporates little to no automation and instead relies on personnel to manually identify and compile the reportable data. An example of a manual system would be an accountant reviewing invoices to identify the reportable data and then transferring the findings to a spreadsheet. In contrast to automation, a manual system requires relatively little setup time but the reporting effort will generally increase with the contractor’s sales volume.

The likelihood of a contractor adopting an automated system increases with their applicable sales volume. Vendors with little to no reportable data are unlikely to expend the effort needed to establish an automated reporting system since it will be relatively easy to identify and report a limited amount of data. In fiscal year 2018, 15% of FSS contracts in the TDR pilot had \$0 sales, while another 10% reported annual sales between \$1 and \$25,000 per month. However, as a contractor’s applicable average monthly sales increase, it will be increasingly likely to establish an automated system to reduce the monthly reporting burden. Consequently, contractors with higher reportable sales will likely bear a higher setup burden to create an automated system, or

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absorb a high monthly reporting burden if they choose to rely on manual reporting methods.

The following chart depicts the likelihood of the current population adopting manual and automated reporting systems:

Vendors by Reporting System Type (Manual vs. Automated)				
	Manual System (Percentage)	Automated System (Percentage)	Manual System - Vendor Count	Automated System - Vendor Count
Category 1	100%	0%	355	0
Category 2	100%	0%	197	0
Category 3	90%	10%	557	62
Category 4	50%	50%	205	205
Category 5	10%	90%	54	482
Total Count of Vendors by System Type			1,367	749
Percentage of Vendors by System Type			65%	35%

Initial Setup:

Vendors complying with this rule will absorb a one-time setup burden to establish reporting systems. The estimated setup time varies between automated and manual reporting systems. Vendors implementing a manual system must acclimate themselves with the new reporting requirements and train their staff accordingly, while those with automated systems must perform these tasks in addition to configuring information technology resources. GSA estimates the average one-time setup burden is 8 hours for contractors with a manual system and 240 hours for those with an automated system.

Monthly Reporting:

After initial setup, contractors subject to these clauses are required to report sales within 30 calendar days after the end of each calendar month. The average reporting times vary by system type (manual or automated) and by sales categories. GSA estimates contractors using a manual system will have average monthly reporting times ranging from 15 minutes (0.25 hours) for contractors with \$0 sales to an average of 48 hours for contractors with monthly sales over \$1 million. On the other hand, GSA projects contractors with automated systems will have reporting times of 2 hours per month, irrespective of monthly sales volume, as a result of efficiencies achieved through automated processes. The following table shows GSA’s projected monthly reporting times per sales category and system type:

Monthly Reporting Hours by System Type and Category		
	Manual Systems	Automated Systems
Category 1	0.25	2.00
Category 2	2.00	2.00
Category 3	4.00	2.00
Category 4	16.00	2.00
Category 5	48.00	2.00

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Annualized Public Burden Estimates

FSS Burden Estimates:

A total of 376 FSS contracts joined the TDR pilot in FY 2018, including 139 newly awarded contracts and 237 existing contracts that voluntarily joined the pilot. The initial setup burden was split between manual and automated systems, the number of which was estimated based on the ratio for all pilot contracts (64% manual, 36% automated). The initial setup burden for those contracts is illustrated below:

Initial Setup: FSS Contracts			
	Manual	Automated	Totals
Contracts	241	135	376
Hours per Setup	8	240	91 (average)
Total Setup Hours	1,925	32,486	34,412
Hourly Rate	\$77.55	\$77.55	\$77.55
Total	\$149,293	\$2,519,302	\$2,668,651

Transactional data was reported for 2,063 FSS contracts in FY 2018. As noted above, the reporting burden for contractors using manual systems increases with their reported sales while the reporting burden for contractors using automated systems remains constant regardless of the reported sales volume. The reporting burden for those contracts is illustrated below:

Monthly Reporting: FSS Contracts							
Category	Manual Reporting					Automated	Total
	1	2	3	4	5		
Contracts	318	197	557	204	52	735	2,063
Hours/Month	0.25	2	4	16	48	2	-
Hours/Year	954	4,728	26,741	39,072	30,067	17,645	119,207
Hourly Rate	\$55.19	\$55.19	\$55.19	\$55.19	\$55.19	\$55.19	\$55.19
Total	\$52,651	\$260,938	\$1,475,825	\$2,156,384	\$1,659,409	\$973,817	\$6,579,023

Non-FSS Burden Estimates:

The only non-FSS contract vehicle currently using the clause is the Alliant 2 unrestricted contract. 53 Alliant 2 contracts were awarded in FY 2018, meaning each of the contract holders incurred initial setup costs. The initial setup burden was split between manual and automated systems, the number of which was estimated based on the ratio for the Alliant 2 contracts (74% manual, 26% automated). The initial setup burden for those contracts is illustrated below:

Initial Setup: Non-FSS Contracts			
	Manual	Automated	Totals
Contracts	39	14	53
Hours per Setup	8	240	69 (average)

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Total Setup Hours	312	3,360	3,672
Hourly Rate	\$77.55	\$77.55	\$77.55
Total	\$24,196	\$260,568	\$284,764

As noted above, the reporting burden for contractors using manual systems increases with their reported sales while the reporting burden for contractors using automated systems remains constant regardless of the reported sales volume. The reporting burden for those contracts is as follows:

Monthly Reporting: Non-FSS Contracts							
Category	Manual Reporting					Automated	Total
	1	2	3	4	5		
Contracts	37	0	0	1	1	14	53
Hours/Month	0.25	2	4	16	48	2	4.8 average
Hours/Year	111	0	0	192	806	336	1,445
Hourly Rate	\$55.19	\$55.19	\$55.19	\$55.19	\$55.19	\$55.19	\$55.19
Total	\$6,126	\$0	\$0	\$10,596	\$44,505	\$18,544	\$79,772

Based on this methodology, the average annual time burden for contractors complying with this collection is 158,736 hours:

Average Annual Time Burden	
FSS Vendors (Clause 552.238-80 Alternate I)	153,619 Hours
Non-FSS Vendors (Clause 552.216-75)	5,117 Hours
Total Average Annual Time Burden	158,736 Hours

The average annual cost burden for contractors complying with this collection is \$9,612,752:

Average Annual Cost Burden	
FSS Vendors (Clause 552.238-80 Alternate I)	\$9,247,674
Non-FSS Vendors (Clause 552.216-75)	\$364,535
Total Average Annual Time Burden	\$9,612,209

13. Provide an estimate for the total annual cost burden to respondents or recordkeepers resulting from the collection of information.

There are no separate capital, operation, maintenance, or services costs incurred because of FSS pricing disclosures. Please see Section 12 for a calculation of the total cost associated with the hour burden of this collection.

14. Provide estimates of annualized costs to the Federal Government.

The Government also incurs costs through this rule when collecting data and performing quality assurance functions. The duties required for these activities will generally be completely by

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mid-level personnel. For the purposes of establishing an hourly rate, GSA equates these duties to those of a GS-12, Step 5 employee, whose hourly rate in 2019 for the “Rest of U.S.” locality is \$40.51 an hour.²¹ When factoring a 36.25 percent overhead rate for fringe benefits, the fully burdened rate is \$55.19 an hour.²²

- **FSS Contracts:** Industrial Operations Analysts (IOAs) conduct compliance reviews that include analyzing the completeness and accuracy of reported data. IOAs reported spending 8,170 hours on compliance reviews in fiscal year 2018 for contracts in the TDR pilot. This equates to an estimated annual cost of \$450,889.
- **Non-FSS Contracts:** GSA personnel estimated it currently takes them an average of 2.5 hours per contract per month to process transactional data. Multiplied by the number of applicable non-FSS contracts in fiscal year 2018 (53) and 12 months, this equates to 133 hours, or an estimated annual cost of \$87,752.
- **Information Technology Systems:** The system needed to collect and process transactional data costs GSA an average of \$491,500.00, spread across a 20-year contract life cycle.

Combining the costs for FSS contracts, non-FSS contracts, and information technology systems, the total annualized cost to the Government for the reporting clauses is \$1,030,141.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14.

Adjustments for Actual Number of Contracts

The TDR pilot had yet to launch when these burden estimates were previously calculated in 2016, so GSA based its estimates for the number of contracts that would participate on the total number of contracts under the Schedules and Special Item Numbers eligible for the pilot:

- The ratio of GSA Schedule contracts that would continue to require legacy sales reporting and CSP and PRC disclosures was estimated to be 56.8%, which was based on the percentage of the program’s sales in fiscal year 2015 for contracts that would not be eligible to participate in the TDR pilot.
- The ratio of GSA Schedule contracts slated to be included in the TDR pilot was estimated to account for the remaining 43.2%.

However, pilot participation became optional in 2017 and the number of contracts that eventually joined the pilot was far lower than anticipated in 2016. Of the 16,215 contracts that were active in FY 2018—

21 See Office of Personnel Management (OPM), Pay & Leave: Salaries and Wages, SALARY TABLE 2019-RUS at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/19Tables/html/RUS_h.aspx

22 36.25% overhead rate was used in reference to Office of Management and Budget (OMB) Circular No. A-76. Circular A-76 requires agencies to use standard cost factors to estimate certain costs of Government performance. These cost factors ensure that specific government costs are calculated in a standard and consistent manner to reasonably reflect the cost of performing commercial activities with government personnel.

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- 14,152 contracts, or 87.28% of the total, were required to conduct legacy sales reporting and provide CSP and PRC disclosures.
- 2,063 contracts, or 12.72% of the total, participated in the TDR pilot.

Additionally, only one non-FSS contract vehicle, Alliant 2 (unrestricted), currently uses the non-FSS TDR clause. The last revision of these burden estimates relied upon the total number of non-FSS contracts (537) that would be eligible had they been awarded after the TDR rule was promulgated. As a result, the number of non-FSS contracts was lowered from 537 to the actual number of contracts using the applicable clause, 53.

Accordingly, the revised participation figures resulted in significantly lower burden estimates for this information collection. On the other hand, the FSS pilot participation revisions resulted in significantly higher burden estimates for the information collection accounting for CSP and PRC disclosures and quarterly sales reporting (OMB Control Number 3090-0235).

Revised Labor Rates

The revised burden estimates for this information collection used different labor rates as the basis for both the public and Government cost estimates.

Public Cost Estimates: The previous burden estimates used a fully burdened labor rate of \$68/hour. This included a \$50/hour base rate, which was based on professional judgment, and 36% for fringe benefits, which was rounded down from the 36.25% fringe benefit factor included in OMB Circular A-76. The revised burden estimates attempt to align with the Department of Defense's Regulatory Cost Analysis Tool (RCAT), which was developed to prepare economic analyses in compliance with Executive Order 13771 and uses various Government labor category rates as the basis for cost estimates. As such, GSA determined—

- The GS-12, Step 5 labor rate from the RCAT (\$55.19/hour) was the most appropriate for the tasks performed by contractors to comply with monthly reporting requirements; and
- The GS-14, Step 5 labor rate from the RCAT (\$77.25/hour) was the most appropriate for the tasks performed by contractors to comply with the initial setup.

Government Cost Estimates: The previous burden estimates used basic hourly rates for GS-12, Step 5 employees in the Washington, DC pay locality as the basis for all Government cost estimates. However, GSA now believes the GS-12, Step 5 labor rate from the RCAT (\$55.19/hour) is the most appropriate for the tasks performed by contractors to comply with monthly reporting requirements.

16. For collections of information whose results will be published, outline plans for tabulation and publication.

Transactional data reported in accordance with the applicable clauses is being shared with authorized users to craft smarter buying strategies. GSA is also developing data visualization tools to make the data more user friendly. Within GSA, FAS has established a data analytics

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team that assists in the establishment and ongoing analysis of contract-level prices.

GSA intends to eventually share the transactional data with the public to the maximum extent allowable to promote transparency and competition. However, GSA recognizes some information may be protected from public release, so it is exploring ways to provide the public a filtered view of the data, including information that is releasable under the Freedom of Information Act while protecting information that is not.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

GSA is not seeking such approval for this collection.

18. Explain each exception to the certification statement identified in Item 19, “Certification for Paperwork Reduction Act Submissions”.

None.

B. Collections of Information Employing Statistical Methods

Statistical methods are not used in this information collection.